

HOUSE BILL 852

M3, M1

11r0750
CF SB 634

By: **Delegates Mizeur, Holmes, Beidle, Bobo, Carr, Frick, Frush, Gilchrist, Glenn, Healey, Hubbard, Lafferty, Luedtke, McHale, A. Miller, Niemann, Pena–Melnyk, Reznik, B. Robinson, S. Robinson, Stein, and Wilson**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **The Marcellus Shale Safe Drilling Act of 2011**

3 FOR the purpose of prohibiting the Department of the Environment from issuing
4 certain permits for the drilling of wells in the Marcellus Shale until certain
5 conditions are met; requiring the Department to consult with the governing
6 body of certain local governments in evaluating certain permits for the drilling
7 of wells in the Marcellus Shale; defining certain terms; and generally relating to
8 natural gas drilling in the Marcellus Shale.

9 BY repealing and reenacting, without amendments,
10 Article – Environment
11 Section 14–104
12 Annotated Code of Maryland
13 (2007 Replacement Volume and 2010 Supplement)

14 BY adding to
15 Article – Environment
16 Section 14–107.1
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2010 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Environment**
22 14–104.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) A person may not drill any well for the exploration, production, or
2 underground storage of gas or oil in the State without obtaining a permit from the
3 Department of the Environment under the terms and conditions and on the forms the
4 Department prescribes.

5 (b) (1) The Department shall require an applicant to submit an
6 environmental assessment for the purpose of evaluating an application.

7 (2) The Department shall coordinate with the Department of Natural
8 Resources in its evaluation of the environmental assessment.

9 (c) The permit serves as the permit required under the provisions of Title 9,
10 Subtitle 13 of this article, dealing with well drillers.

11 (d) A person may not dispose of any product of a gas or oil well without the
12 necessary permits issued by the Department.

13 **14-107.1.**

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
15 MEANINGS INDICATED.

16 (2) "CRITICAL HABITAT" MEANS HABITAT NECESSARY FOR THE
17 SURVIVAL OF THREATENED OR ENDANGERED SPECIES OR SPECIES IN NEED OF
18 CONSERVATION.

19 (3) "FLOW BACK" MEANS THE FRACTURING FLUIDS THAT
20 RETURN TO THE SURFACE AFTER A HYDRAULIC FRACTURE IS COMPLETED.

21 (4) "FRACTURING FLUIDS" MEANS A MIXTURE OF WATER,
22 PROPPANT, AND ADDITIVES USED TO HYDRAULICALLY INDUCE CRACKS IN A
23 GEOLOGIC FORMATION.

24 (5) "HYDRAULIC FRACTURING" MEANS INJECTING FRACTURING
25 FLUIDS INTO A TARGET FORMATION AT A FORCE EXCEEDING THE PARTING
26 PRESSURE OF THE ROCK, INDUCING FRACTURES THROUGH WHICH OIL OR
27 NATURAL GAS CAN FLOW TO THE WELLBORE.

28 (6) "MARCELLUS SHALE" MEANS A MIDDLE DEVONIAN-AGE
29 BLACK, LOW-DENSITY, CARBONACEOUS SHALE THAT:

30 (I) OCCURS THROUGHOUT THE ALLEGHENY PLATEAU
31 REGION OF THE NORTHERN APPALACHIAN BASIN; AND

1 **(II) UNDERLIES PARTS OF GARRETT COUNTY, ALLEGANY**
2 **COUNTY, AND WASHINGTON COUNTY.**

3 **(B) THE DEPARTMENT MAY NOT ISSUE A PERMIT FOR THE DRILLING OF**
4 **A WELL IN THE MARCELLUS SHALE UNTIL, IN ADDITION TO ANY OTHER**
5 **REQUIREMENT OF LAW, THE PERMIT APPLICANT DEMONSTRATES TO THE**
6 **SATISFACTION OF THE DEPARTMENT THAT:**

7 **(1) A PLAN TO AVOID, MINIMIZE, AND OFFSET THE IMPACTS,**
8 **INCLUDING CUMULATIVE IMPACTS, OF DRILLING AND RELATED ACTIVITIES TO**
9 **WETLANDS, FORESTS, OR OTHER VITAL NATURAL RESOURCES, INCLUDING**
10 **FRAGMENTATION OF FORESTS AND CRITICAL HABITAT, HAS BEEN DEVELOPED**
11 **AND CAN BE IMPLEMENTED;**

12 **(2) AN AGREEMENT HAS BEEN REACHED WITH EACH LOCAL**
13 **JURISDICTION IN THE STATE THROUGH WHICH HEAVY EQUIPMENT OR TRUCKS**
14 **MAY PASS, REGARDING:**

15 **(I) TRAVEL ROUTES;**

16 **(II) HOURS OF TRUCK TRAVEL; AND**

17 **(III) RESPONSIBILITY FOR THE CONSTRUCTION,**
18 **MAINTENANCE, AND REPAIR OF ROADS AND BRIDGES;**

19 **(3) THE DRILLING AND OPERATION OF WELLS WILL NOT IMPAIR**
20 **THE SUSTAINABILITY, WATER QUALITY, OR POTABILITY OF THE GROUNDWATER**
21 **AND SURFACE WATER IN THE WATERSHED OF THE PROPOSED PERMIT;**

22 **(4) THE WATER USED FOR DRILLING AND HYDRAULIC**
23 **FRACTURING IS FROM A PUBLIC WATER SUPPLY THAT:**

24 **(I) HAS SUFFICIENT CAPACITY UNDER ITS WATER**
25 **APPROPRIATION PERMIT; OR**

26 **(II) SUBJECT TO APPROVAL OF THE DEPARTMENT, IS**
27 **RECLAIMED WATER;**

28 **(5) THE FRACTURING FLUIDS USED FOR HYDRAULIC**
29 **FRACTURING CONTAIN ONLY PROPPANTS AND ADDITIVES THAT HAVE BEEN**
30 **APPROVED BY THE DEPARTMENT;**

31 **(6) THE TREATMENT AND DISPOSAL OF FLOW BACK AND OTHER**
32 **WASTEWATERS AND WASTES WILL OCCUR ONLY AT REGULATED FACILITIES;**

1 **(7) THE PERMIT APPLICANT WILL IMPLEMENT A MONITORING**
2 **PROGRAM, APPROVED BY THE DEPARTMENT, TO:**

3 **(I) ESTABLISH A BASELINE OF WATER QUALITY FOR**
4 **GROUNDWATER AND SURFACE WATER PRIOR TO THE DRILLING AND INITIAL**
5 **HYDRAULIC FRACTURING; AND**

6 **(II) TEST THE GROUNDWATER AND SURFACE WATER**
7 **PERIODICALLY TO DETERMINE WHETHER DRILLING AND HYDRAULIC**
8 **FRACTURING HAVE AFFECTED THE GROUNDWATER AND SURFACE WATER;**

9 **(8) A PLAN FOR EMERGENCY RESPONSE FOR THE PROPOSED SITE**
10 **AREA:**

11 **(I) HAS BEEN DEVELOPED;**

12 **(II) CAN BE IMPLEMENTED; AND**

13 **(III) INCLUDES:**

14 **1. A DESCRIPTION OF THE PERMIT APPLICANT'S**
15 **EMERGENCY RESPONSE CAPABILITY AND RESPONSE TIME; AND**

16 **2. ASSURANCE THAT LOCAL EMERGENCY**
17 **RESPONDERS HAVE BEEN TRAINED AND HAVE APPROPRIATE PROTECTIVE GEAR**
18 **AND EQUIPMENT TO ATTEND TO THE INJURED AND SECURE THE SITE UNTIL THE**
19 **PERMIT APPLICANT'S EMERGENCY RESPONSE UNIT ARRIVES; AND**

20 **(9) THE PERMIT APPLICANT HAS ENVIRONMENTAL IMPAIRMENT**
21 **LIABILITY INSURANCE, APPROVED BY THE DEPARTMENT, THAT IS SUFFICIENT**
22 **TO REMEDIATE ON- AND OFF-SITE CONTAMINATION, BODILY INJURY,**
23 **PROPERTY DAMAGE, AND OTHER LONG-TERM POLLUTION PROBLEMS CAUSED**
24 **BY DRILLING AND RELATED ACTIVITIES.**

25 **(C) IN EVALUATING A PERMIT FOR THE DRILLING OF A WELL IN THE**
26 **MARCELLUS SHALE, THE DEPARTMENT SHALL CONSULT WITH THE GOVERNING**
27 **BODY OF THE COUNTY AND, IF APPLICABLE, MUNICIPAL CORPORATION IN**
28 **WHICH THE PROPOSED WELL IS LOCATED.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 June 1, 2011.